

LAKE COUNTY PLANNING BOARD
January 10, 2018
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Steve Rosso, John Fleming, Sigurd Jensen, Rick Cothorn, Frank Mutch, Lee Perrin, Janet Camel, David Goss, Abigail Feiler

STAFF PRESENT: Jacob Feistner, Lita Fonda; Consultant Joel Nelson
Also: Wally Congdon; Rob Edington, Clint Evenson, Tiffani Murphy; Gale Decker; Consultant Dave DeGrandpre

Steve Rosso called the meeting to order at 7:00pm. The order was slightly changed. For the Growth Policy Rewrite, staff would present, the public would comment and then the Board would ask questions and discuss.

GROWTH POLICY REWRITE (7:01 pm)

Joel Nelson, consultant with Land Solutions, mentioned comments had been received in December from the planning boards and the public. They'd intended to kick off the adoption process with this second draft. Materials with the draft included a forward from the County Commissioners, which might be incorporated into the growth policy. He checked that recent public comment had been received by the Board, including the comment handed out this evening. (See attachments to minutes in the Jan. 2018 meeting file for memos, Commissioner forward, draft, public comment and handouts.) Joel highlighted some of the revisions since the first draft.

Uncertainty over the Density Map & Regulations (DMR) treatment in the Growth Policy was in the forefront of the process. The public seemed to show support for keeping it. The Commissioners weren't so sure. Additional work might be needed to address the Commissioners' vision for the DMR as a zoning document. A number of density policies were written into this draft, based on previous Commissioner comment as well as Planning Board comments. This draft left the door more open to the possibility that County Commissioners would repeal the DMR. Additional comments from the Commissioners show that might be the direction they were going at this time.

Joel touched on the City County Planning Board meeting that took place on the previous evening. That board dealt with the area in and right around Polson, and the Polson Development Code. Little comment was received. They talked about a couple of issues.

Jacob pointed out the Board anticipated that a resolution would be adopted by the Board tonight as required by the state. With changes being proposed specifically to chapter 8 and the goals and implementation tools connected to that, a recommendation tonight might be premature. Time tonight might be best spent working on chapters 1 through 7, and leaving chapters 8 and 9 for the next meeting. This was, of course, up to the Board. As they could see in the comments, the Lake County Commissioners were moving towards making the DMR advisory rather than regulatory. That didn't mean that it wouldn't be in effect or that it wouldn't be used. As a

person who used it on a daily basis, he could say that he wanted direction on development and where and how it happened. It would still be used as an advisory document for daily decisions as far as development and subdivisions. One change that would take place was that if they were going to deviate from it, they would make findings in support of that instead of going to the Board of Adjustment to deviate from it. It wasn't going away. The idea was to change the capacity in which it was used.

Some other changes were being talked about that the Commissioners would like to implement into the Growth Policy. He thought it would be better to wait and see those prior to the Board making a recommendation.

Dave D noted the primary purpose tonight was to provide an opportunity for public comment. It was a public hearing under state law and he advised that ought to be the primary purpose. He thought it would be premature to make a recommendation tonight. It was important to hear what the public had to say and consider and document that.

Public comment opened:

Sam Jacobson, newly elected City County Planning Board (CCPB) chair, said the CCPB didn't take action on the second draft. If this Board chose to recommend that this went forward, they would be willing to call another meeting and act in accordance with what this board did. There were obviously some large issues that the public would address.

David Passieri, a realtor from St. Ignatius, thought there were a few areas that weren't being addressed wholeheartedly in the actual growth policy. It seemed like the assumption of the role of the Growth Policy was to lessen the impact of rural development. What about the impact to Lake County survival?

- Pg. 19, Key Issue 4: Local Governance & Leadership: It talked about fee land going into tax-exempt status, and where this might result in a failed county. He didn't see a projection or technical information to show where they were going with this.
- Pg. 21, Projections: It talked about Lake County's population declining by 2% by 2035. In a capitalistic system, you needed growth for the tax revenue base to maintain services, which would go up with inflation. This was a concern.
- Pg. 57, Chapter 8: Land Use Development, Density Policies, #5: This was saying less rural development and more in the high density areas. As a realtor, this area attracted a lot of folks because of the sense of privacy as well as the views, clean air, fresh water, etcetera. He didn't believe people were looking to be in a stack-and-pack, high-density type area where there were a whole lot less amenities than Missoula or Kalispell.
- Pg. 57, Chapter 8: Land Use Development, Density Policies, #6: Again, it was away from the rural areas. Another statistic suggested that about 100 people showed up at the July public meetings. Approximately 55% wanted to see some types of changes to the DRM to reflect some of the trends. These trends were pretty scary from a realtor/property valuation perspective.
- Pg. 5: It showed that roughly 25% of the population lived in the higher density municipalities. Seventy-five percent lived in the rural areas. Why wouldn't they support more creative rural development? He gave the example of cluster development with a

common area for an organic community farm. The roads existed. Fiber optic back [inaudible] was going throughout the valley. They would still be going out there with the services. They could dominate some of those attributes that people looked for when they got out of the bigger cities. He thought the Growth Policy should be focused on the viability of Lake County and the success going forward and the survival.

- Pg. 8: What did the word ‘obligation’ mean in the bottom italicized paragraph in the vision statement?
- Pg. 18, Key Issue 3: Economic Development: What did ‘culturally appropriate’ mean in the third line from the bottom?

He thanked the Board for their time.

Robin Steinkraus, executive director of the Flathead Lakers, made sure the Board members had copies of a comment letter from that organization. She presented additional prepared comments. (See attachments to minutes in the Jan. 2018 meeting file for handouts. The written version of her prepared comments is also there.) She appreciated that many of her comments from the workshop on the first draft were incorporated in the second draft. She highlighted 6 concerns.

- New goal suggested: Protect surface water and groundwater quality. Six new objectives were suggested along with this. (See prepared comments in the Jan. 2018 meeting file for list.)
- Concern regarding weakening the DRM. Replacement goal for Goal 5.4 and 4 new objectives were recommended. (See prepared comments in the Jan. 2018 meeting file.)
- Timber and Forest Resources: Cite forest land managers and experts in the field of forest and fire management regarding forest conditions rather than using just one source.
- Reframe some issue statements, vision statements, goals and objectives in positive terms rather than negative.
- Chapter 9 Implementation,
 - Timeline column: Use some benchmarks and target outlined for specific actions rather than vague terms.
 - Signs of Success column: Include how signs would be tracked and measured.
- They commended making intergovernmental coordination and cooperation and citizen participation priorities in growth policy implementation.

Thompson Smith was a veteran of the Flathead Basin Commission and spoke at the request of the current chair. He outlined the purpose of the Commission and that its modus operandi was to build consensus. It was composed purposely of a broad array of entities: state, federal, tribal, citizen and county members. Among the issues they’d worked closely on for the last 8 years was Aquatic Invasive Species (AIS). They were grateful for Lake County’s wonderful support on that issue. Unfortunately, those in Helena completely eliminated the funding for the Flathead Basin Commission. If they had the opportunity, they would like to submit written comments on this current draft. They’d commented on previous drafts. They were pleased, as Robin S noted, that one thing emphasized in this draft, was that this issue was all about intergovernmental coordination and cooperation. It was central to success where the jurisdictional boundaries were complex and where the solution to these problems must involve both the County and the Tribes.

This [DRM] passed 10 years ago probably remained the shining example of the Tribes, County and residents of the county coming together in the interest of trying to pass on to future generations what we all loved about this place. That remained the great common ground that bound them together, with all the other differences. For that reason, he hated to see the baby thrown out with the bathwater. The Flathead Basin Commission as a whole, in its previous comments basically made that point. Their argument was yes, there might be changes and amendments needed. He assumed some of those were in the draft. They didn't agree with more drastic steps, such as repealing [the DMR] or reducing it from a regulatory document to a merely advisory one. Regardless, this was most fundamentally about intergovernmental coordination and cooperation.

His key point in regards to that was the new Tribal Council was less than 1 week old. To greet it with a sudden step right now wasn't the best way to pursue the building of that relationship into a good working relationship, which they needed in order to be able to solve these problems. The fact that this new Tribal Council had been in place for less than a week was a strong argument for taking a deep breath, pausing and beginning or pursuing those conversations to see what could be arrived at to begin to solve [the problems]. Obviously, the problems the County faced were serious, which the Flathead Basin Commission appreciated and understood. They strongly believed solutions could be found that would both make for a prosperous future for the County, the Tribes and the residents of this area, and take care of this place. That was really what a growth plan should do. They felt the growth plan and DMR that were established were shining achievements in that area. He appealed for a pause and the pursuing of these conversations, and revisiting some of these things to find a more constructive way forward.

Jordan Thompson spoke, wearing 3 hats: Tribal member, Tribal attorney and tax-paying citizen of Lake County.

As a Tribal attorney for CS&KT, he echoed what Thompson Smith said. The Tribes saw the DMR as a partnership between two governments that came together. The DMR was something they could all hold. They could use the County's laws and regulations to get to that and they could use the Tribe's laws and regulations to achieve that. It was a really good example of two governments working together for a common goal. For a change to be made, the Tribes would like to ask that they sit down and talk about this before changing. The Tribes had pushed an MOU across the table to Lake County. They would like to still consider talking about that MOU to ensure that everyone here was following the same rules, [in following their own rules] to get to the same goal. [Editor's note: The Commissioners have not found evidence of receiving the MOU.] He thought the DMR was the way to do that. They asked for more time so they could sit down and talk about this.

As a Tribal member, his concern was that he wanted to keep this place beautiful. He saw the DMR as a tool to use for that. As a Tribal member, he would like more time for comments to be made in consideration of this.

As a taxpayer, he owned in fee about 20 acres on the east side of Flathead Lake, upon which he paid taxes. He asked that the constituents be listened to. He was here for the last public comment meeting when the Commissioners were considering repealing the DMR. [People] came out in overwhelming support to keep this in place. It was disheartening to see that they

weren't being listened to. He hoped they had more time to think about this a little longer, reconsider and keep up the best possible way forward.

Roger Smith lived on Skidoo Lane. He seconded the comments with respect to the DMR. One comment was that although large numbers of people were concerned with change in the DMR, they were people who weren't affected in a significant way, or at least not as much as those who wanted the changes. Those living in Lake County who were Lake County taxpayers were very much concerned with DMR issues as they affected the general environment and as they affected the quality of life. This certainly was a major issue affecting all of us even if people were not large landowners pushing to alter the nature of the use of our land. The second comment dealt with the report's comment that referred to the DMR not having had much of an effect and therefore altering them would not be very significant. If they hadn't had much effect then there wasn't much of a reason to alter them either. Those two concerns popped out at him as he read the concerns and comments on the DMR. He seconded the comments of the Tribes and the Flathead Basin Commission to look at this with great care and to consider the population at large as opposed to perhaps the minority that was affected somewhat more financially but none the less, all were affected financially as well [through] the quality of life.

Public comment closed.

Steve opened the Board discussion. Staff had recommended the Board look at chapters 1 through 7 to begin with. They could see how time went, and could discuss chapters 8 and 9 if they had time.

Chapter 1:

Steve, in general: It would be helpful to have a map to show the amounts of areas in the different jurisdictions, to go with the ample discussion about the dependence on ownership of the land in Lake County. The location of fee lands, Tribal lands and also which Tribal land was being leased to Tribal members and which was not [would be helpful to see].

Frank, pg. v, A Glance From Afar, 3rd paragraph: After 'recreational destination', add 'highly sought after residential area and world class orchard and vineyard area.'

Janet, pg. 4, last paragraph in the first column: Correct the irrigation project name to "Flathead Indian Irrigation Project".

Frank, pg. 6, first paragraph, next to last sentence: Add churches to the list. Another person mentioned churches might go under businesses.

Chapter 2: No comments.

Chapter 3:

Steve was pleased to see that a lot of comments from the last workshop seemed to be included.

Chapter 4:

Dave G, pg. 18:

- Include a statement as to how those 5 key issues were identified [in the Introduction].
- In the discussion of something that should not be a cause of young people leaving Lake County, should that be limited to young people or say just people leaving Lake County in general?
- The same comment applied where it spoke of senior citizens requiring assistance. Maybe the goal should be to make it an attractive place to live for all seniors.

Janet, pg. 19, Key Issue 3: Economic Development: For the last words of the section, replace 'local businesses and families' with 'the area'. Steve asked if a similar statement should be in 'Key Issue 1: Quality of Life' (pg. 18) in the issue statement, about cultural sustainability. Janet replied it was there. She thought 'local businesses and families' was too specific in Key Issue 3. A lot of people came here because they were interested in the history.

Chapter 5:

Dave G:

- Pg. 22, Geographic Distribution: Reinforce the unique character in Lake County with the urban/rural split, both from an economic standpoint of providing cost-efficient services and also planning issues. The Census Bureau, at least in 2010, identified 25 counties in MT that had significant urban clusters, then broke down the urban population percentage versus the rural population percentage. Of those 25 counties, Lake County was 24th in urban, with 16% in an urban cluster. That showed the rural nature of the county and as a result, the difficulty or challenges of planning issues and the delivery of services. Include a remark about that.
- Pg. 25, Housing Projections: Add a discussion of a figure used by a lot of people in housing called the price to income (PTI) ratio. The current median sales price was divided by the current median family income to get a PTI. Most economists would say a ratio of 3.5 was normal. When things went south in 2008, the ratio went quite a bit higher than that. If you looked at that and divided the non-waterfront median sales price by the median family income, you had a PTI of 5.64, above what economists considered [normal] (3.5). That in itself didn't indicate a problem. It indicated that you probably needed to take a better look at what was causing that upward pressure on prices so you could make a determination as to whether that was something you could do something about. If you used \$225,000 for the non-waterfront and median family income of \$39,898, you got 5.64.

Chapter 4:

Janet, pg. 19, Key Issue 4: Local Governance and Leadership, second paragraph: Regarding the phrase 'with many residents', change this to 'with some residents'. 'Many' implied the majority, and she didn't believe this applied to the majority of 29,000 residents. Frank disagreed. The two discussed their views on this. Frank suggested saying 'an unknown number'.

Chapter 5:

Frank, pg. 21, Population: It would be important to try to at least estimate the amount of seasonal fluctuation in population. It had a lot to do with the economy and impacts on services. It was reflected in the number of vacant houses. He suggested looking at retail sales and how they change from summer to winter and adjust for tourists by knocking out some percentage.

Steve agreed more effort needed to be made to estimate the seasonal change. He didn't know if you could extrapolate from the vacant houses and referred to the numbers in table 2 on pg. 23. There was probably a way to estimate or make more specific comments about how the population changed and affected the economy and other kinds of responsibilities to provide for the County. Sam J mentioned a comment made to him that the summer volume at Super One was almost three quarters higher.

Steve:

- Pg. 26: First full paragraph in the second column, last sentence: It would be worth a little more research to see if there is a way to get some kind of numbers to go beyond recognizing the fact that there was an unknown [seasonal] difference. Mike Cozart thought the hotels and RV parks could tell the tourist numbers pretty closely.
- Pg. 24, figure 5: Make one graph line dashed and the other solid, so this graph would work if published in black and white.

Chapter 6:

Janet, pg. 30, photo caption: Say 'Forest land' rather than 'One of Lake County's forests' since this might be Tribal land.

Frank:

- Pg. 30, Agricultural Resources, last sentence of 3rd paragraph: Change to 'small farms' rather than 'hobby farms'.
- Make it a priority to adopt the Right to Farm regulations. At least mention it somewhere in the Growth Policy. Steve thought this was already included as an action.
- Pg. 31, Air Resources: Talk about forest fires.

Steve:

- Pg. 31: Air Resources: Expand the sentence to a paragraph, at least.
- Timber & Forest Resources: Have some other opinions about the health of the forests in the County rather than having a single opinion. Others with opinions included University of Montana Forestry Dept., National Forest Service and state foresters. Rick added the private sector. Janet added the Tribes.

Dave D noted that a lot of these details were requested at the last meeting. They didn't follow up on some of them. There was a super-limited budget left for this and they needed to pick and choose where to put effort. This was a major limitation right now. He didn't want people to be disappointed if they didn't see everything they wanted next time. The reality of the situation was they couldn't spend a ton of time to do research to address these issues. He emphasized that if the Board thought that some of the issues that weren't discussed at the level they would like impacted policy, goals, objectives or specific actions, that was great and that was where he recommended they put their attention.

Steve thought the health of the forests impacted a lot of the decisions that needed to be made for the growth policy. To have just the single opinion on which to base their future forest management policies would be a mistake. He understood the grant to hire consultants to help with the growth policy was a major part of this. It didn't mean the consultants had to be the only

ones doing the work. He hoped the priority of having a good, complete growth policy meant that if they needed some additional resources, perhaps for the planning staff to spend time on this if they were out of grant money to pay consultants, that they could do that rather than to compromise the completeness of the growth policy. Rick didn't know if this was a can of worms because everyone would have an opinion and they wouldn't have a consensus. Steve compared this to getting a diagnosis from a doctor. You didn't ask your neighbors [for another diagnosis]; you went to another doctor. He was suggesting they go to other forestry experts to get more than one opinion.

Frank said [the forests] did affect the goals and objectives. It had a huge impact on the economy, jobs, timber production and tourism. The tourists fled or stayed away during fire season. It affected health and whatever else you could name. He thought they should expand on reducing fuels. He gave the example of Finley Point, with only one road out of there if they needed to evacuate. It was a huge issue. He thought the Tribe did a better job than the federal government at managing the forest with a multiple use concept. Janet thought continuing to do risk assessment was really important in the forests, especially in the wildland urban interface (WUI). She could see if the Tribal Forestry Dept. could provide another paragraph. They didn't have enough time before New Years to get their comments in and were not given an extension. If they had another month, she would see if she could get more language. Jacob said that would be helpful.

Steve, pg. 34, Cultural Resources: Write another paragraph about the homesteaders, St. Ignatius Mission and non-native cultural resources. There were more cultural resources than the Native American ones. This might run into the budget constraints.

Chapter 7:

Dave G:

- Pg. 39, first column, last paragraph: Change 'to development parallel' to 'to develop parallel'.
- Pg. 42: Earlier tonight, the fiber optic system going in was mentioned. Fiber optics could have a strong impact on where development occurred.
- Pg. 44, Water Supply & Wastewater Treatment Systems: Update the references made to City projects for Ronan and Polson to be completed by the end of 2017, since that's past.

Janet, pg. 40, last paragraph: [The Tribes] made a comment that many of the lands owned by the Tribes in trust were in the Mission Mountains or Salish Mountains and were undevelopable. In the first letter to the Commissioners and to the Planning Board, they made a statement that should be added there. It was misleading to think that all of these lands needed services. Lee observed that he owned land in the Salish Mountains and it was taxed. He thought the point here was that these taxes helped provide for the good of the County. They might not need services up there but still the taxes went to the County, which provided income to the County for roads and infrastructure. Janet said these lands were in trust before the County was established. The County never had to provide services to them. Her point was that even though lands were in trust status, it didn't necessarily mean the County was losing money because they were in trust. The Tribes provided game wardens to police those lands and wildland fire protection. To clarify, she hated to see the document be one-sided. She'd like it to be fair to both sides. Frank said if

the criteria was land that didn't need services, a lot of lands in wild state were taxed that didn't need services. He thought the elephant in the room was that the County was diminishing in resources and tax revenue. A lot of it was from the shift of private property to Tribal. That was an issue. He would add to the report that Tribal members didn't pay vehicle taxes or state income taxes, since some of that came back to the County.

Thomas Lozeau Jr. was a CS&KT member. In Public Law 280 agreement under House Bill 55, introduced by Gene Turnage, it addressed the tax issues concerning Tribal members not paying taxes. That was in the agreement. That issue was dealt with in the legislature under House bill 55 and was part of Public Law 280.

Steve, pg. 4, Public Infrastructure, CIP paragraph heading: Spell out Capital Improvement Plan.

Frank:

- Pg. 42, second paragraph (under picture): Regarding the ambulance services, add 'privately owned'. The connotation was it was a government service. Steve wasn't sure which were volunteer non-profit organizations and which were private. Frank and Steve agreed that Polson and Ronan were private. Gale added that St. Ignatius was also private. Steve said many of the others were non-profit.
- Pg. 43, Telecommunications: Mention the Hot Springs Phone Company, if it was a separate company. Gale explained it was part of Access Montana and the old Ronan Telephone Company was called Hot Springs. Lee and others clarified that although the town of Hot Springs wasn't in Lake County, those services were provided to residents of Lake County.

Steve, pg. 44-45, Water Supply and Wastewater Treatment Systems: He was glad to see the research done on whether or not these had capacity.

Chapter 8:

Steve referred back to the map showing jurisdiction that he mentioned when the Board discussion began.

On the Polson Development Code, Steve recalled discussion on whether the latest code had been accepted and whether or not that needed to be done by the County. He asked if action 114 was hinting at that. Sam Jacobson said [the City] would love to sit down and work it out and talk when [the County] had revised their code. Gale explained what happened at the County level. The Commissioners and the Planning Dept. probably spent 8 to 12 hours looking at the County regulations and the Polson Development Code, trying to figure out how to put them together and how the County adopted what Polson had put together. They couldn't do it. There were some differences in the two documents that they didn't think they could put together. The outcome was a resolution of intent to disband the City County Planning Commission. Following public comment, most of the public wanted to see something happen there as far as the development code that both [entities] could work with. The resolution of intent to disband was not acted upon and the City County Planning Board remained in place. They hadn't gotten together to see how to iron out the differences. The County was certainly willing to tackle that again. Steve checked about the action item. Gale noted it would take a tremendous amount of staff time and

Commissioner time to get it done. Jacob clarified that it was listed as an action item in 114. Its timeframe was updated to 'immediate to short term' in response to the City County Planning Board's recommendation.

Frank, pg. 54, list of regulations in place: Possibly add pending issues that were mandated by the legislature, like the Right to Farm policy. Dave D asked if the subdivision regulations had been updated for changes made by the most recent legislature. Jacob replied not yet. Frank clarified he was talking about new items that were pending but not completed rather than updates. Joel thought that would be ever-changing. Dave G thought they might want to keep it general. If this Growth Policy covered 20 years, who knew what the situation would be then. Steve said they needed to review the action items in chapter 9 for steps on which they knew they'd be working. Joel said the action was there to make a yearly list and revisit it every year. Frank mentioned prioritizing. Steve said that would be up to the Commissioners and the Planning Board to decide which priority should be worked on. Joel observed there were a lot of moving parts.

Steve, pg. 55, Density: Public discussion and Commissioner comment had already been received on this for the Growth Policy. He contributed some general statements. It was important for the growth of the County to have rules and regulations that people could follow and know ahead of time when they were buying or investing in property so they had some predictability about what would happen in the future to their neighborhood and the land around them. It was also important to recognize that land development provided a lot of benefits and created a lot of costs to the County. One benefit was that private developers could make a nice profit by buying inexpensive land far from urban centers where the land was cheap. The profit was much better than buying land close to urban areas. Something had to offset this incentive that developers had to create sprawl. He thought the DMR were one way to de-incentivize this idea of buying land that should be agricultural or timber land and turning it into high density residential land. Having the DMR as non-regulatory entered the risk that decisions made to deny high density development in a rural area would be based on opinion rather than specific regulations. That would open up the County, Planning Board and Commissioners to lawsuits, compromises and huge expenses for the tax payers. They had to be very careful about deciding whether or not to eliminate the DMR or to make them non-regulatory. He was concerned with putting a discussion of the density issue in the growth policy specifically saying they wanted to repeal it. The current discussion that talked both about the repeal and keeping it with revisions was an important discussion. He wasn't in a position to recommend that they make some of the changes that had been suggested.

Frank saw the issue in two categories. One was intent and the other was legality or what was the approach that the legislature directed. It was also an offshoot of the growth policy, a non-regulatory document on which it was based. He thought if the growth policy, the mother document, was non-regulatory then that would be passed to the child document and the DMR should be non-regulatory. To him it had to do with the legality and the morality of it. The DMR said this was not to be used to mandate land use decisions. The key issue in any land use decision in zoning was density. There was nothing passed by the state legislature that mentioned density maps and regulations. This became a guideline then miraculously became zoning in contradiction to what it said it should be. He thought they were getting mixed up about the good things about the density policies. He didn't see why the good parts couldn't be put into the

Growth Policy as a non-regulatory document to guide zoning decisions done by the citizens. It seemed this thing came from the top down. It contained good policies but he didn't think it was proper to mandate them as law. He thought this hadn't been challenged due to a lack of development.

Janet said they'd had two attorneys look at the DMR, who believed they were legal and could be upheld in court. When the DMR talked about that they couldn't dictate land use, that meant the type of use: whether it was agricultural, multi-family residential, commercial or industrial. That was what land use meant. The DMR's talked about the amount of development on a parcel that affected water quality, wildlife habit and so forth. This was a simplified zoning tool that just regulated the density of development rather than saying you couldn't put commercial here, or industrial, or you have to have certain setbacks. It was a good guideline [and helped avoid] the cutting of agricultural land into 5-acre or 2-acre parcels that couldn't be used for agriculture. It was also a good guideline for protecting vulnerable aquifers, where the density of development should be limited where you didn't have sewer systems.

Frank interjected that he didn't argue with the goodness of it. He was talking about the way it was imposed on non-Tribal residents so it was only a partial fix. Janet replied that the Tribes were following it. She asked him to provide examples to her of where it wasn't being followed since it was passed. She could demonstrate how they had followed it. If you made it an advisory document, you would have slick attorneys saying they didn't have to follow it since it was only advisory. It wasn't regulatory and didn't have the teeth that regulations had. Frank said this document and the density guidelines led to zoning, which were laws, which were mandated. Janet said it was very difficult to get citizen-initiated zoning passed. In her 29 years here, the County initiated the zoning around the lake and the citizens met. The County didn't have time to do more of that kind of zoning. The DMR was like a replacement for that, to protect the Planning Board and Commissioners from arbitrary decisions being made about how many lots were suitable in the outlying areas. It also helped protect the taxpayers so a lot of resources were not being spent to create more roads, more school bussing, more police and fire protection in the areas that were 5 or 10 miles out of town. It cost more to provide services to those areas. Having a regulatory document was more beneficial rather than having it advisory.

John F said the DMR was an opportunity for the Tribal government, a sovereign government, and the State and County government, a sovereign government, to work together on something. It was a great model for that. He was here when it was put together and could say where the idea and the spirit for it came from. They fought month after month over what they would accept and not accept as proper developments or subdivisions [before the DMR]. He described an example immediately east of the 44 Bar. Someone wanted to make 4 10-acre parcels. They gave them two. The local people didn't want subdivision right by this ranching country. From then on, they allowed 20-acre parcels in the southern end of the County. That was stressful for the staff. People thought they could come in and subdivide and they weren't allowed to. Some had done a lot of work and put in a lot of money before they came up to Polson and were turned down. The DMR was a solution to that so when someone walked into the Planning Office, they could hand them a map and show them where they could do 20's, 40's or 5's. They only had one request for a change in density and they granted that. The density document was not a very aversive document. You could change it. If someone came in here and said they wanted to change it,

they could get it done. If you made it non-regulatory, you might as well throw it out. It had no value then. He was obviously in favor of keeping the DMR.

A brief discussion of what documents were advisory and which were regulatory occurred. Steve clarified that in general, the Growth Policy had goals, objectives, actions and so forth but it was non-regulatory. In order to implement some of those goals, objectives and actions in the policy, it did result in other documents that were regulatory. The DMR was one of those regulations. Backing that up and making it non-regulatory made it like the Growth Policy and made it hard to enforce, and to result in the achievable goals that they wanted to achieve. That was part of the challenge. It would be a whole new challenge to make this non-regulatory and still achieve the goal they wanted to achieve.

Gale addressed some points. The Commissioners had been upfront since the beginning [of the current growth policy revision] in saying that the DMR was not going to stay in its present form in the new policy. He thought what drove that was the DMR was written to implement the goals and objectives of the 2003 Growth Policy. They were writing a new policy. They were not amending the old one. Were the goals and objectives of the two documents the same? Absolutely not. They knew from the beginning that it was not going to stay as a regulatory document. If it went to an advisory document, there were advantages. They could still use it as the Tribes used it, as an advisory document, so there was no need for an MOU between the Tribes and the County because they were both working from the same document. As far as the lack of teeth, as Jacob pointed out, if people wanted to come up with a proposal that varied from what the DMR were, they would need findings that would tell [both] why they could do this and the legal process that they would need to go through to grant the change that was asked for in the density map. It wasn't like they were going to open the floodgates and take anything that came in to the Planning Dept. and approve it because it wasn't regulatory anymore. That was a false idea. The DMR was only amended one time. He did the amendment. It took about 2 years and well over \$1000. Amending it wasn't that easy.

Gale continued that the Commissioners heard a lot of talk that a great deal of the public comment was not being reflected in the Growth Policy. That was untrue. They considered each and every comment that came in and determined which were appropriate to add to the document. This was a Lake County growth policy that would have jurisdiction over Lake County residents and property. They believed that density was only one way of guiding or controlling development. There were also sanitary regulations, subdivision regulations, creation of water and sewer districts and road improvement districts. They felt that [the DMR] would be best as a non-regulatory tool. Moving the DMR to an advisory document would allow them to use some common sense when they got proposals that come in. Sometimes under the current regulations, they could have a project that made complete sense but they couldn't do it because of regulations. There was evidence that the DMR hadn't accomplished the goals and objectives it was intended to do. If a regulation was not doing what it was intended to do, why not get rid of it? He appreciated the people who had worked on this and thanked them. It had been controversial from its start 15 years ago. It remained controversial and in the end it would be a Commissioner decision as to what to do with it.

Steve recognized that the County had lots of regulations. The DMR was not the only land use zoning regulation. Many of those were developed long before the 2003 Growth Policy. If they justified repealing the DMR because it belonged to a previous growth policy and a new one was now being written, what happened to the rest of the zoning and land use regulations? Gale thought they should be amended. They were working with Planning to try to make amendments, which was a significant public process. Rather than doing them piecemeal, they were trying to bring the needed amendments together at one time for consideration and approval. Steve asked if that wasn't what had been proposed here in this growth policy to go through that same process with the DMR, to do amendments to bring it up to date and to solve some of the issues that had been discovered over the last 10 years. Gale said he'd heard talk of amending it for years but specific changes had never been brought forward to [the Commissioners].

Steve outlined that 1 ½ years ago, [the Board] started to recognize problems with the DMR and started to put it on their agenda. They'd scheduled a Planning Board meeting to talk about amendments. As a member of the Planning Board, he went through the document and carefully made a lot of notes about amendments that he was going to recommend. [The members] arrived at that meeting to find out that the Commissioners didn't want to discuss amendments. They wanted to repeal it. It shifted the discussion entirely. He thought that if they had followed the agenda at that time, the Board might have had a different answer for the Commissioners. The Commissioners would have had a list of amendments to be made to that document. Gale said he didn't realize that had been on the agenda. Speaking for himself as a Commissioner, his idea was that in one year they would have the mandatory review. During this one year, they would talk about amendments to the map and to the regulations themselves to make them work, actually some working sessions, and then at the end of the year, determine if they were good, if the amendments were what they needed to help administer the Growth Policy or did they need them at all. That was his concept of how the process would work. They would look at amending the map and the regulations and then bring them to [the Board] for suggestions, comments or whatever, and then move forward from there.

Janet commented that she remembered when that meeting to work on amendments was scheduled. She would like that opportunity again. As far as the Tribes incorporating it as law, they were working on their land ordinance. They had several updates that needed to be made. They had discussed incorporating the DMR into their land ordinance and it would be regulatory. She thought they were on parallel planes here, looking for the same outcome. She thought [the Tribes] would welcome making this a regulatory document if the County kept it as regulatory also. They were already following it in many of their policies, which were even stricter than the DMR in many areas. They welcomed working on this together.

Gale said if they did move it to advisory, they could certainly amend the Growth Policy at a future time to make them regulatory. Janet thought it would be a bigger challenge if they went backwards. Let's keep the momentum they had now and continue to improve on them. They were very effective as a regulatory document. Gale said they differed there.

Rick asked how many times the DMR had been used as a basis for allowing or not allowing something. Jacob replied on a daily basis. Frank said there had been cases at the Board of Adjustment. Steve pointed out that although the actual regulations and map had been amended

once, lots of variances had been allowed and permitted. They weren't in a situation where the only option to do something other than what the DMR required was to amend it. Gale said another thing that happened was many more family transfers were requested. People tried to use other processes. The DMR might or might not work because there were ways of getting around the density. Steve thought that was part of what those who had worked on the opportunity to amend the DMR thought about. Some of those amendments that never met the light of day involved how it dealt with family transfers and some of those kinds of things.

Steve suggested they conclude the discussion and recognize that they really hadn't finished this. Lots of comments and ideas for changes for another draft were made tonight. He didn't think the Board was in a position with this document to make a recommendation tonight. He asked the Board for a consensus or not. The Board murmured agreement. Jacob thought they'd done a really good job of cleaning up chapters 1 through 7. With some language in chapters 8 and 9 regarding what they'd just talked about for [the Board] review, [they should be able to] look at this again and focus on those two chapters. Steve commented that especially with this particular draft, there wasn't much time for public review. To not have another opportunity to for public input and discussion in a month when people might have had more of a chance to digest it and think about what they'd discussed tonight would be a mistake.

Dave G commented on the DMR that he'd worked in multiple states in community and economic development and real estate. One thing he'd found to be true in almost all situations, from states with state-wide zoning to areas with none, was that uncertainty was often worse than a bad regulation. People wanted to know what the rules were and that they were going to be enforced uniformly and that what they had to do, the next person had to do. For developments that were multiple year projects, they wanted to know if they would be playing by the same rules in 10 years if they started today. Whatever they did here, it had to be done in such a way that people would have a certain level of certainty when they were looking at development. He gave an example where [his county] lost a development to a neighboring county with stricter regulations. The person made that decision because although the regulations were stricter, the developer knew what those were. [Lake County] needed to keep that in mind as they moved forward. Uncertainty could be worse than a bad regulation.

2018 CHAIR & VICE CHAIR (9:20 pm)

Motion made by Janet Camel, and seconded by Lee Perrin, to reappoint Steve Rosso as chair and Rick Cothorn as vice chair. Motion carried, all in favor.

MINUTES (9:22 pm)

November 9, 2016: Steve gave the following corrections. On pg. 4 in the second line of the second paragraph, 'made sure' changed to 'make sure'. On pg. 6 in the 8th line of the last paragraph, 'might have talked about' changed to 'might have to be talked about'. On pg. 10 near the end of the next to last paragraph, 'issues sand they' changed to 'issues and they'. On pg. 12 in the top line, 'to mention' changed to 'to the mention'.

Motion by Rick Cothorn, and seconded by Sigurd Jensen, to approve the Nov. 9, 2016 meeting minutes as amended. Motion carried, 6 in favor (Steve Rosso, Sigurd Jensen, Rick Cothorn, Frank Mutch, Janet Camel, David Goss) and 3 abstentions (Lee Perrin, Abigail Feiler, John Fleming).

December 13, 2017: Steve conveyed a request from Janet to review those at the next meeting for more time to look them over. He asked if anybody objected to postponing those. Frank asked if the buoy people would get a refund with the application rejected for lack of jurisdiction. Jacob clarified that the application hadn't been rejected. Lita noted a request of the meeting minutes had been received with a timeline by Friday. She could give them the draft minutes, which were clearly labeled as 'draft'. This had been done in the past. Steve said the minutes would be postponed. He suggested they could hang on to the copy provided this month.

Rick asked if the Board could make suggestions for corrections to the minutes online to expedite the process. Lita said her understanding was a list of corrections could be given ahead of time. It would have to be presented at the public meeting so the changes were done in public. She could accumulate a list of changes, which could be presented at the public meeting. It would save the time of locating each change and be presented as a list. This might save a little time in the meeting. It might require more work on each board member's part.

OTHER BUSINESS

None.

Steve Rosso, chair, adjourned the meeting at 9:29 pm.